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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed  
as a separate compilation.

## LOK SABHA

The following Bill was introduced in Lok Sabha on 27th December, 1990:—

BILL No. 181 OF 1990

*A Bill further to amend the Finance Act, 1990 and the Income-tax Act, 1961*

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. This Act may be called the Taxation Laws (Amendment) Act, 1990.

Short  
title.

12 of 1990.

2. In section 2 of the Finance Act, 1990 (hereinafter referred to as the principal Act),—

Amend-  
ment of  
section 2.

(a) in sub-section (5),—

(i) for the words “eight per cent.”, wherever they occur, the words “twelve per cent.” shall be substituted;

(ii) the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 15th day of October, 1990, namely:—

‘Provided that in the case of a contractor, being a domestic company, the provisions of this sub-section shall have effect, as if for the words “eight per cent.”, the words “fifteen per cent.” had been substituted.’

(b) in sub-section (6),—

(i) for the words “eight per cent.”, wherever they occur, the words “twelve per cent.” shall be substituted;

(ii) the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 15th day of October, 1990, namely:—

‘Provided that in the case of a buyer, being a domestic company, the provisions of this sub-section shall have effect, as if for the words “eight per cent.”, the words “fifteen per cent.” had been substituted.’;

(c) in sub-section (7), in the second proviso, for the words “eight per cent.”, the words “fifteen per cent.” shall be substituted and shall be deemed to have been substituted with effect from the 15th day of October, 1990;

(d) in sub-section (8), in the proviso, for the words “eight per cent.”, the words “twelve per cent.” shall be substituted.

Amend-  
ment of  
First  
Schedule

3. In the First Schedule to the principal Act,—

(a) in Part II, under the heading “Surcharge on Income-tax” and the entries relating thereto, as they existed immediately before their amendment by the Finance (Second Amendment) Ordinance, 1990, the following proviso shall be inserted, namely:—

Ord. 3 of  
1990.

“Provided that the income-tax deducted in accordance with the provisions of—

(i) sub-item (a) of item 1 of this Part shall be increased by a surcharge for purposes of the Union calculated at the rate of twelve per cent. of such income-tax on and from the date the Taxation Laws (Amendment) Act, 1990 receives the assent of the President;

(ii) sub-item (a) of item 2 of this Part shall be increased by a surcharge calculated at the rate of fifteen per cent. of such income-tax with effect from the 15th day of October, 1990.”;

(b) in Part III,—

(i) in Paragraph A,—

(1) in Sub-Paragraph I, under the heading “Surcharge on income-tax”, for the words “eight per cent.”, the words “twelve per cent.” shall be substituted;

(2) in Sub-Paragraph II, under the heading “Surcharge on income-tax”, for the words “eight per cent.”, the words “twelve per cent.” shall be substituted;

(ii) in Paragraph B, under the heading “Surcharge on income-tax”, for the words “eight per cent.”, the words “twelve per cent.” shall be substituted;

(iii) in Paragraph C,—

(1) in Sub-Paragraph I, under the heading "*Surcharge on income-tax*", for the words "eight per cent.", the words "twelve per cent." shall be substituted;

(2) in Sub-Paragraph II, under the heading "*Surcharge on income-tax*", for the words "eight per cent.", the words "twelve per cent." shall be substituted;

(iv) in Paragraph D, under the heading "*Surcharge on income-tax*", for the words "eight per cent.", the words "twelve per cent." shall be substituted;

(v) in Paragraph E, under the heading "*Surcharge on income-tax*", for the words "eight per cent.", the words "fifteen per cent." shall be substituted and shall be deemed to have been substituted with effect from the 15th day of October, 1990.

43 of 1961.

4. In section 32 of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act), in sub-section (1), in clause (ii), after the second proviso and before *Explanation* 1, the following proviso shall be inserted, namely:—

Amendment of section 32.

"Provided also that the deduction in the case of any block of assets under this clause in respect of the previous year relevant to the assessment year commencing on the 1st day of April, 1991 shall be restricted to seventy-five per cent. of the amount calculated at the percentage, on the written down value of such assets, prescribed under this Act immediately before the commencement of the Taxation Laws (Amendment) Act, 1990."

5. In section 234C of the Income-tax Act, in sub-section (1), after the first proviso and before the *Explanation*, the following proviso shall be inserted, namely:—

Amendment of section 234C.

"Provided further that nothing contained in this sub-section shall apply to any shortfall in the payment of the tax due on the returned income where such shortfall is on account of—

(a) restricting the amount of deduction under the third proviso to clause (ii) of sub-section (1) of section 32;

(b) increase in the rate of surcharge under section 2 of the Finance Act, 1990, as amended by the Taxation Laws (Amendment) Act, 1990,

12 of 1990.

and the assessee has paid the amount of shortfall,—

(i) where it is a domestic company and—

(1) the case falls under clause (a), as part of the instalment of advance tax which is immediately due;

(2) the case falls under clause (b), on or before the 15th day of November, 1990 in respect of the instalment of advance tax due on the 15th day of September, 1990;

(ii) where it is not a domestic company and—

(1) the case falls under clause (a), as part of the instalment of advance tax which is immediately due;

(2) the case falls under clause (b), as part of the instalment of advance tax due on or before the 15th day of March, 1991.”.

Payment  
of sur-  
charge.

**6. Notwithstanding anything contained in the Income-tax Act,—**

(a) the surcharge payable under section 2 of, and Part III of the First Schedule to, the principal Act, as amended by this Act,—

(i) in the case of an assessee being a domestic company, shall, in respect of the instalment of “advance tax” paid or payable on or before the 15th day of September, 1990, be payable on or before the 15th day of November, 1990;

(ii) in the case of assessee not being a domestic company, shall, in respect of the instalment of “advance tax” paid or payable on or before the 15th day of September, 1990 and the 15th day of December, 1990, be payable on or before the 15th day of March, 1991;

(iii) in any case in which income-tax has to be calculated under the first proviso to sub-section (5) of section 132 of the Income-tax Act or charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act shall be payable only where such income-tax is so calculated or charged—

(1) in respect of a domestic company, after the 15th day of October, 1990;

(2) in respect of any other assessee, after the date on which this Act receives the assent of the President;

(b) in the case of surcharge deductible under section 2 of, and Part III of the First Schedule to, the principal Act, as amended by this Act, the person responsible for making the payment referred to in sub-section (1) or sub-section (2) or sub-section (2A) or sub-section (2B) of section 192 of the Income-tax Act shall, at the time of making such payment after the date on which this Act receives the assent of the President, adjust any deficiency arising out of any previous deduction resulting on account of the increase in the rate of surcharge.

Repeal  
and  
saving.

**7. (1) The Finance (Second Amendment) Ordinance, 1990 is hereby repealed.**

Ord. 8  
of 1990.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

## STATEMENT OF OBJECTS AND REASONS

In order to mobilise additional resources to meet the financial cost of evacuating Indians from the Gulf and providing relief to them, the Government decided to increase the surcharge on income-tax payable by domestic companies. Since Parliament was not in session, and it was necessary to take immediate action to raise the said resources, the Finance (Second Amendment) Ordinance, 1990 (Ord. 8 of 1990) was promulgated by the President on 15th October, 1990, by this Ordinance, the surcharge of 8 per cent. payable by domestic companies on income exceeding Rs. 75,000, during the financial year 1990-91 has been increased to 15 per cent.

2. In order to meet the stringent financial situation arising out of the Gulf crisis, the Government has also decided to increase the surcharge on income-tax hitherto payable by assesses, other than companies. The depreciation allowable on written down value of block of assets is also proposed to be restricted to 75 per cent. of the amount calculated at the percentage prescribed under the Income-tax Act.

3. The Bill seeks to replace the Finance (Second Amendment) Ordinance, 1990 and to give effect to the proposals mentioned in paragraph 2.

NEW DELHI;  
*The 20th December, 1990.*

YASHWANT SINHA.

*Memorandum explaining the modifications contained in the Bill to  
replace the Finance (Second Amendment) Ordinance, 1990*

The Taxation Laws (Amendment) Bill, 1990, which seeks to repeal and replace the Finance (Second Amendment) Ordinance, 1990, proposes to make the following modifications in the provisions contained in the said Ordinance:—

(i) sub-section (2) of section 1 of the Ordinance has been dropped as the provisions of sub-clauses (a) (ii), (b)(ii) and (c) of clause 2 and a portion of sub-clause (a) and sub-clause (b)(v) of clause 3 of the Bill will come into force retrospectively from the 15th day of October, 1990. The remaining provisions of the Bill will come into force from the date of assent of the President;

(ii) sub-clauses (a) (i), (b) (i) and (d) of clause 2 and a portion of sub-clause (a) and sub-clause (b) (i) to (iv) of clause 3 seek to amend section 2 of the Finance Act, 1990 and Part II and Paragraphs A to D of Part III of the First Schedule to that Act so as to increase the surcharge on income-tax presently payable by assesseees, other than companies. The said surcharge is being increased from eight per cent, to twelve percent;

(iii) clause 4 seeks to amend clause (ii) of sub-section (1) of section 32 of the Income-tax Act so as to restrict the depreciation allowable on written down value of block of assets, in respect of the previous year relevant to the assessment year commencing on the 1st day of April, 1991, to seventy-five per cent of the amount calculated at the percentage prescribed in the Income-tax Rules, 1962 immediately before the commencement of this Amendment;

(iv) clause 5 seeks to amend sub-section (1) of section 234C of the Income-tax Act so as to provide that the interest specified in that sub-section shall not be payable in respect of any shortfall in the payment of the tax due on the returned income where such shortfall is on account of restricting the amount of deduction under the third proviso to section 32(1)(ii) or increase in the rate of surcharge under section 2 of the Finance Act, 1990, as amended by this legislation subject to the condition that the payment of tax is made by the due date;

(v) clause 6 seeks to specify the dates for payment of additional tax liability.

K. C. RASTOGI,  
Secretary-General.